

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

LYNWOOD T. DAVIS
Defendant.

Criminal No.: 05-168 (Cr)

**MOTION TO SUPPRESS EVIDENCE WITH POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

COMES NOW the defendant, Lynwood T. Davis, by and through counsel Charles F. Daum, who pursuant to Fed. R. Crim. P. 12 (b) and the Fourth Amendment to the United States Constitution, respectfully moves this Honorable Court to suppress as evidence against him at the trial of this case, any and all tangible evidence recovered on April 17, 2005 from 1821 Savannah Street, S.E., apartment 103. In support of this motion, the defendant avers the following based on information and belief:

1. On April 17, 2005 at approximately 6:00 PM officers from the Metropolitan Police Department were dispatched to the location of 1821 Savannah Street S.E. in response to a call for a man with a gun.
2. Upon arrival officers met with the complainant, a person they did not know. The complainant alleged that defendant Davis had threatened her with a handgun inside an apartment located at 1821 Savannah Street S.E.
3. The complainant pointed out the defendant who was outside the building to the officers, who then approached the defendant and effected an arrest outside of 1821 Savannah Street S.E.

4. Subsequent to the defendant's arrest the defendant was questioned without any Miranda warnings being given. Based upon information gathered during this interrogation, the Metropolitan Police Department prepared an affidavit in support of a search warrant.
5. In the affidavit submitted to the Superior Court in support of a search warrant in this case the officer implies that there was a firearm and related paraphernalia inside the defendant's apartment. That was a conclusion. There is nothing in the affidavit that independently corroborates the allegations of the complainant. The affidavit in support of the warrant lacked probable cause. See Illinois v. Gates, 462 U.S. 213 (1983).
6. The defendant requests an evidentiary hearing on this motion.

Wherefore, given the aforementioned averments the defendant requests that his motion be granted.

Charles F. Daum
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Washington, DC 20002
202-546-8886

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion was sent via Postal service this 16th day of June, 2005 to Assistant United States Attorney Trena Carrington , Office of the United States Attorney, 555 4th Street NW, Washington, DC 20001.

Charles F. Daum